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REMARKS

This paper is responsive to a non-final Office action dated May 17, 2004. Claims 1-55 were examined. The Office has allowed claims 34, 36, 37 and 39-42. The Office has objected to claims 6, 10 – 12, 20, 23, 30, 31, 35, 38, and 43 – 55. Claims 1 – 5, 7 – 9, 13 – 19, 21, 22, 24 – 29, 32, and 33 stand rejected. The Office has objected to claims 7, 22 – 33, 35, 38, and 43 – 55 for informalities. Non-narrowing amendments have been made to these claims to correct these grammar informalities, but not to overcome the art of record. Per MPEP §706.03(k), claims 10 – 12, 30 and 31 have been cancelled as being duplicative of allowed claims 34, 41, 42, 50, and 55, respectively.

Rejections with Bremer

The Office has rejected claims 1 – 3, 5, 7, 9, 13 – 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,311,578 issued to Bremer et al. (Bremer). Applicant respectfully traverses all of these rejections.

The Office maintains its rejections with Bremer of independent claims 1 and 13 from the December 1, 2003 Office Action (“prior Office Action”). The Office’s rejections of claims 1 and 13 as being anticipated by Bremer cannot stand because Bremer does not teach all of the limitations of claim 1 or claim 13. The rejections fall because 1) forcefully overlaying Bremer’s hidden identification signal to seemingly become a signal characteristic leads to Bremer failing other limitations of the claims, and 2) there is no disclosure or suggestion in Bremer of “comparing the evaluated one or more characteristics to characteristics of signals sent by known devices” as recited in claims 1 and 13.

Incorrect Overlay of Bremer’s hidden identification signal and CCITT V.25 Protocol

The current Office Action does not find Applicant’s response to the prior Office Action persuasive and asserts that Bremer’s hidden identification signal is the evaluated signal characteristic of independent claims 1 and 13. This argument fails because the hidden identification signal is not part of the V.25 protocol, and therefore the V.25 protocol cannot allow for variability in the hidden identification signal. The Office Action reasons that the V.25

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protocol provides for the hidden identification signal and that the allowed variability is either the existence or lack of the hidden identification signal.

It can superficially be seen that the V.25 protocol does not provide for the hidden identification signal. On first impression, the naming convention leads to the conclusion that a protocol would not provide for a "hidden signal." Furthermore, the lack of the hidden identification signal leads to completion of the sequence outlined by the V.25 protocol, and the existence of the hidden identification signal leads to termination of the V.25 protocol sequence and "enables the modem to then establish non-standard, or proprietary, operation" (col. 5, lines 44 – 46). Moreover, Bremer even states that "other forms of hidden signals may be used as long as the signaling characteristics do not interfere with the standard call establishment procedure" (col. 7, lines 18 – 21), which further evinces that the hidden signals are not part of the V.25 protocol. The hidden identification signal allows circumvention of the V.25 protocol. Hence, the V.25 protocol cannot allow for variability in the hidden identification signal, which the Office deems the same as signal characteristics, at least because it is not part of the V.25 protocol.

Bremer does not disclose "comparing the evaluated one or more characteristics to characteristics of signals sent by known devices"

The Office Action assumes that there is a comparison of the hidden identification signal with other signals. However, Bremer does not disclose or suggest such a comparison against "characteristics of signals sent by known devices" as recited in claims 1 and 13. Bremer discloses determining the existence of the hidden identification signal. Bremer never discloses making a comparison, and especially does not disclose or suggest making comparison of the hidden identification signal against other hidden identification signals sent by known devices. Hence, Bremer does not disclose or suggest at least the above quoted limitations of claims 1 and 13.

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Rejections with Amundson

The Office has rejected claims 24 – 29 and 33 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,680,773 issued to Amundson (Amundson). Applicant respectfully traverses all of these rejections.

Again, the Office maintains its rejection of claim 24 from the prior Office Action. This rejection cannot be maintained because 1) Amundson fails to disclose or suggest “storage elements containing known one or more parameters associated with one or more known communication devices”, and 2) the Office improperly interprets Applicant’s claim limitations and character sampling.

Amundson does not disclose or suggest storage elements containing known parameters associated with known communications devices. The character that Amundson searches for in a signal is associated with either a matched protocol or a non-matched protocol (col. 6, lines 1 – 5). It seems that the Office assumes Amundson would inherently disclose a storage element that contains a character in order to detect the character in a signal. If such an assumption is appropriate, then Amundson would disclose a storage element that contained a character, and at most would disclose a storage element that contained a character associated with either a matched or non-matched protocol. However, Amundson does not disclose or suggest “storage elements containing known one or more parameters associated with one or more known communication devices” as recited in claim 24.

The rejection of claim 24 with Amundson also fails as argued in the response to the prior Office Action. Amundson specifically discloses “character sampling.” Applicant respectfully submits that reading character sampling to be the same as measuring parameters, effectively ignores the actual meaning of those terms, which would be improper. Hence, Applicant respectfully submits that Amundson does not anticipate claim 24.

Rejections with Kamerman

The Office has rejected claims 1, 2, 4, 5, 7, 13 – 15, 24 – 27, 29 and 33 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,849,989 issued to Kamerman (Kamerman). Applicant respectfully traverses all of these rejections.

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Kamerman does not disclose or teach the limitations of Applicant's claims. Kamerman at least does not disclose or teach 1) evaluating characteristics associated with one or more signals in accordance with a protocol, which allows for variability of the characteristics, 2) comparing the characteristics to determine an identity of a remote communications device, and 3) measuring parameters and comparing the measured parameters against stored parameters of known devices.

Claims 1 and 13

Kamerman discloses storing operating parameters and equalizing coefficients for a remote modem during an initial training sequence, so that in subsequent communications with a remote modem the training sequence can be reduced to a single segment (col. 5, lines 39 – 48). The training sequence disclosed in Kamerman is in accordance with the communication protocol CCITT Recommendation V.33. The Office suggests that a set of identifying frequencies are characteristics associated with signals as recited in claims 1 and 13. However, Kamerman discloses nothing more about the set of identifying frequencies other than utilizing them for retrieving stored parameters and coefficients. Kamerman does not disclose or suggest an association of the identifying frequencies with the V.33 protocol. Even if it is assumed that the V.33 protocol provides for the set of identifying frequencies, Kamerman does not disclose or suggest V.33 allowing for variability of the set of identifying frequencies.

The Office states that the DFT calculations disclosed in Kamerman are effected for recognition of a transmitting modem. However, the DFT calculations are used for "timing recovery initialization" (col. 6, line 31) and for "address frequency recognition" (col. 6, line 43). In addition, these DFT calculations are performed after detection of an authentic training signal (col. 6, lines 50 – 52), which is after receipt of the set of identifying frequencies. Hence, the DFT calculations are not utilized to identify remote modems.

Claim 24

In rejecting claim 24, the Office Action refers to the set of identifying frequencies. However, the limitations of claim 24 do not recite identifying a remote modem or communication device. The only reference to the actual limitations of claim 24 in the Office's

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rejection of claim 24 is the Office's argument that Kamerman inherently discloses a storage element containing identification frequencies for different remote modems. Indeed, the Office does not argue that Kamerman discloses or suggests "a device operable to measure one or more parameters associated with one or more signals sent during a communication session with a remote communications device" as recited in claim 24. Applicant respectfully submits that at least this limitation is not disclosed or suggested by Kamerman and that the Office has not even asserted that Kamerman discloses or suggests this limitation. Applicant further submits that there is no foundation for the inherent disclosure asserted by the Office.

Claim 16

The Office rejects claims 16 – 19, 21, 22, and 32 under 35 U.S.C. §103 as being unpatentable over Kamerman. Applicant respectfully traverses all of these rejections. The Office relies on the same arguments as the rejections against claims 1 and 13 to reject claims 16, with the added assumption that it would have been obvious to implement the method with instructions. However, for at least the same reasons that Kamerman does not disclose or suggest claims 1 and 13, Kamerman does not disclose or suggest claim 16. Therefore, claim 16 is patentable over Kamerman.

Dependent Claims

With regard to claims 5, 14 – 15, and 25, the Office's rejections rely solely on the existence of operating parameters and coefficients. Kamerman does not disclose or suggest enabling a communication feature with the stored parameters, whether an optimizing communication feature or a deficiency compensation communication feature. Furthermore, the Office's rejections begin to conflict. To reject claims 1 and 13, the Office argues that the set of identification frequencies are the characteristics recited in claims 1 and 13. To reject claims 5, 14 – 15, and 25, the Office argues that the stored parameters and coefficients are the characteristics. The shifting basis for the rejections is an indication that Kamerman does not disclose or suggest Applicant's claims as argued by the Office.

Claims 19 and 22 include essentially the same limitations as claims 14 and 15, but are rejected under 35 U.S.C. §103 because they are embodied as a computer program product. The

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dependent claims 19 and 22 are at least allowable because their base claims are allowable and for at least the same reasons that claims 14 and 15 are allowable.

Conclusion

In summary, claims 1 – 9, 13 – 29, and 32 – 55 are in the case. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

CERTIFICATE OF MAILING OR TRANSMISSION

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Steven R. Gilliam Aug-17-2004
Date

Respectfully submitted,



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